

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DANIEL HORACEK,

Plaintiff,

v.

JOSEPH NEPH,

Defendant.

Case No. 07-13006

Stephen J. Murphy, III  
United States District Judge

Michael Hluchaniuk  
United States Magistrate Judge

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**ORDER GRANTING DEFENDANT'S  
MOTION TO STRIKE (Dkt. 37)**

Plaintiff Daniel Horacek filed his complaint pursuant to 42 U.S.C. § 1983 on July 19, 2007. (Dkt. 1). Defendant filed a motion for summary judgment on June 9, 2008. (Dkt. 21). Plaintiff was ordered to file a response to defendant's motion for summary judgment by September 21, 2008. (Dkt. 28). Plaintiff filed and was granted leave to file a response exceeding the page limitation in the Local Rules. (Dkt. 33, 35). Plaintiff filed his 28 page response brief on September 22, 2008. (Dkt. 34). Defendant file a short reply, in accordance with Local Rule 7.1, on September 30, 2008. (Dkt. 32).

On October 10, 2008, without leave of the Court, plaintiff filed a "Response to Defendant's Reply Brief." (Dkt. 36). Defendant moved to strike plaintiff's

“Response to Defendant’s Reply Brief” because no such filing is permitted under the Federal Rules of Civil Procedure or the Local Rules and plaintiff neither sought nor obtained leave of the Court. (Dkt. 37). The Court agrees with defendant and **GRANTS** defendant’s motion to strike. Thus, plaintiff’s “Response to Defendant’s Reply Brief” is **STRICKEN** and will not be considered by the Court.

**IT IS ORDERED.**

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not thereafter assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Date: October 17, 2008

s/Michael Hluchaniuk  
Michael Hluchaniuk  
United States Magistrate Judge

### **CERTIFICATE OF SERVICE**

I hereby certify that on October 17, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send electronic notification to the following: William G. Pierson, and I hereby certify that I have mailed by United States Postal Service the paper to the following non-ECF participant: Daniel Horacek, # 218347, 951 Indianwood Road, Lake Orion, MI 48362.

s/James P. Peltier  
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U.S. District Court  
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